

Assembly Bill No. 2927

CHAPTER 523

An act to amend Sections 24045.2, 24045.3, 24045.4, 24045.6, 24045.9, and 24045.15 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 2004. Filed with Secretary of State September 14, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2927, Wiggins. Alcoholic beverages.

The Alcoholic Beverage Control Act authorizes the issuance of a special temporary on-sale and off-sale beer and wine license to a nonprofit corporation, as specified, in accordance with, among other things, a requirement that this license shall be issued only once in any 12-month period. Existing law also restricts alcoholic beverages from being sold at less than the minimum retail price by a nonprofit corporation.

This bill would provide that a special temporary license shall be issued only once in a calendar year, and would allow alcohol to be sold at less than minimum retail price by a nonprofit charitable corporation, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 24045.2 of the Business and Professions Code is amended to read:

24045.2. (a) The department may issue a special temporary retail package off-sale beer and wine license to: (1) a television station, supported wholly or in part by public membership subscription, which is a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States, or (2) a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States that receives and administers donations for a noncommercial, educational television station or public broadcasting station supported wholly or in part by public membership

subscription. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell at auction beer and wine donated to it. Notwithstanding any other provision of this division, a licensee may donate beer, wine, or both beer and wine, to a corporation licensed under this section, provided donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding 30 days. Only one license shall be issued to any corporation in a calendar year.

SEC. 2. Section 24045.3 of the Business and Professions Code is amended to read:

24045.3. (a) The department may issue a special temporary retail package off-sale beer and wine license to a women's educational and charitable organization that is a part of a national organization having at least 10 chapters in California at least one of which has been incorporated since 1928, whose purpose is to foster interest among its members in the social, economic, and civic conditions of their community and to give effective volunteer service. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell at auction for charitable purposes wine donated to it. None of the funds realized from this auction shall be used for the administrative expenses of the auction and all funds shall be placed in trust for a charitable purpose. Notwithstanding any other provision of this division, a licensee may donate wine, to an organization licensed under this section, provided that donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding one day. Only one license shall be issued to any organization in a calendar year.

SEC. 3. Section 24045.4 of the Business and Professions Code is amended to read:

24045.4. (a) The department may issue a special temporary off-sale general license to any nonprofit corporation which is exempt from payment of income taxes under the provisions of Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of 1954 of the United States. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell at auction alcoholic beverages donated to it. Notwithstanding any other provision of this division, a licensee may donate alcoholic beverages to a



corporation licensed under this section, provided that donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding 30 days. Only one license shall be issued to any corporation in a calendar year.

SEC. 4. Section 24045.6 of the Business and Professions Code is amended to read:

24045.6. (a) The department may issue a special temporary on-sale or off-sale wine license to any nonprofit corporation that is exempt from payment of income taxes under Section 23701d or 23701e of the Revenue and Taxation Code and Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code of 1986. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This special license shall only entitle the licensee to sell wine bought by, or donated to, the licensee to a consumer and to any person holding a license authorizing the sale of wine. Notwithstanding any other provision of this division, a licensee may donate or sell wine to a nonprofit corporation that obtains a special temporary on-sale or off-sale license under this section, provided the donation is not made in connection with a sale of an alcoholic beverage.

(c) This special license shall be for a period not exceeding 15 days. In the event the license under this section is issued for a period exceeding two days, it shall be used solely for retail sales in conjunction with an identifiable fundraising event sponsored or conducted by the licensee and all bottles of wine sold under this license shall bear a label prominently identifying the event. Only one special license authorized by this section shall be issued to any corporation in a calendar year.

SEC. 5. Section 24045.9 of the Business and Professions Code is amended to read:

24045.9. (a) The department may issue a special temporary on-sale beer and wine license to: (1) a television station, supported wholly or in part by public membership subscription, which is a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States, or (2) a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States which receives and administers donations for a noncommercial, educational television station or public broadcasting station supported wholly or in part by public membership subscription. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell and serve beer and wine donated to it. Notwithstanding any other provision of this division, a licensee may donate beer to a corporation licensed under this



section, provided such donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding 30 days. Only one license shall be issued to any corporation in a calendar year.

(d) For purposes of this section, any licensee may also serve that beer donated by him or her at any event for which the license has been issued.

(e) The department shall adopt rules as it determines necessary to implement and administer this section.

SEC. 6. Section 24045.15 of the Business and Professions Code is amended to read:

24045.15. (a) Notwithstanding any other provision of this division, the department may issue a special temporary on-sale or off-sale wine license to any nonprofit corporation having an agricultural purpose that is exempt from the payment of income taxes under Section 501(c)(5) of the Internal Revenue Code of 1986. If the nonprofit corporation's name, or any name under which the nonprofit corporation does business, includes the designation of an American viticultural area (AVA) recognized by the United States Bureau of Alcohol, Tobacco and Firearms (BATF), as set forth in Part 9 (commencing with Section 9.1) of Title 27 of the Code of Federal Regulations (27 C.F.R. 9.1 et seq.), the membership of the nonprofit corporation shall include a majority of the winegrowers located in the named AVA in order to obtain a license under this section. No more than one nonprofit corporation located in an AVA is entitled to obtain a license under this section. The applicant shall accompany the application with a fee of one hundred dollars (\$100).

(b) This special license shall only entitle the licensee to sell wine donated or sold to the nonprofit corporation by the member winegrowers to consumers for the purpose of fundraising. The wine shall bear the brand name of the producing winery. Off-sale privileges shall be limited to direct mail, telephone, and online computer services. No member winegrower shall donate or sell more than 75 cases of wine per year to the nonprofit corporation and the nonprofit corporation shall sell no more than 1,000 cases of wine per year under the license. If the nonprofit corporation's name or any name under which the nonprofit corporation does business includes the designation of an American viticultural area (AVA) recognized by the United States Bureau of Alcohol, Tobacco and Firearms (BATF), as set forth in Part 9 (commencing with Section 9.1) of Title 27 of the Code of Federal Regulations (27 C.F.R. 9.1 et seq.), the wines sold by the nonprofit corporation must be entitled to use the named AVA as the appellation of origin. In order to avoid confusion between the corporation and any winery whose name also includes the designation of the named AVA, any advertising or solicitation for the sale of wine under this license by the corporation shall include a statement disclosing



that the corporation is a nonprofit agricultural organization whose members include individual winegrowers or grapegrowers and whose purpose is to promote its agricultural region and improve its grapes and wines. This advertising or solicitation shall also include a complete roster of the corporation's members and a list of the brand names, varieties, and vintages of the wines offered for sale. The wine shall not be sold at less than its minimum retail price.

(c) This special license shall be for a period not exceeding 60 days. Only one special license authorized by this section shall be issued to any nonprofit corporation in a calendar year.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that revenues collected by nonprofit organizations through alcoholic beverage sales not be reduced, it is necessary that this act take effect immediately.

